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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,405	01/03/2002	Brian Taylor	22866-013	8361
35437	7590	03/14/2006	EXAMINER	
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO 666 THIRD AVENUE NEW YORK, NY 10017			LANEAU, RONALD	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,405

Applicant(s)

TAYLOR ET AL.

Examiner

Ronald Laneau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendment

1. The response filed on 12/20/05 has been entered. Claims 1-20 remain pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bogat (US 2003/0047387 A1) in view of Flynn (US 2003/0122667 A1)

As per claims 1-10 and 12-20, Bogat discloses a method of optimizing a value associated with a characteristic of a product stored in a first field of a security database of a self-checkout system at an optimizing time, said security database also including a second field for storing identification information for said product, a third field for storing a last time when said value

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was last updated and a fourth field for storing at least one new value for said characteristic stored in said fourth field between said last time and said optimizing time (plurality of sensors station at different fields (first, second, third and fourth field), item locator measured weight placed in the security area, collect weight and location data, update data records from old value to new value) (pages 2-3, [0021] – [0022]), said value being used in a comparison to a second value associated with said characteristic and detected in a security area of said self-checkout system during a purchasing transaction (page 2, [0021]), said comparison used as a security measure to confirm that a product placed in said security area during said purchasing transaction is the same product identified by said system after said system identifies said product via identification information input by a user of said system (page 2, [0021]). Bogat further teach providing a database of records wherein each of said records includes a plurality of values of fields containing respective field values which characterize said products, obviously teach the time difference between the optimizing time value and the last time value (fig. 3A, 116), revising said value for each product in said query result using said new value (updating data records with new value (fig. 3A, 116), a method wherein said physical characteristic comprises weight of said product (pages 2-3, [0021] – [0022]), a storage device 562 to store all attributes for all products (fig. 3A, 124).

Bogat does not teach a self-checkout system but Flynn teaches a self-checkout system including the steps of: querying said database for products that includes comparing each of the search term to keywords associated with each product (page 3, [0025]), an auditory characteristic to identify an item when scanned (all checkout system includes an audio sound when items are scanned in)). Neither Bogat nor Flynn teaches a length and a height characteristics but it is a

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characteristic part of their combined system since it would provide accuracy in identifying each item scanned into the system.

It would have been obvious to one of ordinary skill in the art to utilize the self-checkout system as taught by Flynn into the system of Bogat because it would allow a customer to not only search for item to purchase but to actually finalize the transaction by self-checking out said items and also saving time during the process.

As per claim 11, neither Bogat nor Flynn explicitly teaches a predetermined amount of new values that is between 2-100 but the new found value is intrinsic to each product scanned into the system and whether said value falls within that particular range will depend on the products' attributes.

Response to Arguments

5. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that neither reference alone or in combination discloses a security area. In response to Applicant's arguments, Flynn is used to disclose a security controller which basically controls the security area of the self-checkout system. Applicant further argues that neither reference discloses "querying a security database for products having a time difference between an optimizing time and a last time for a value of a characteristic associated with the product greater than a predetermined period." Contrary to Applicant's arguments, all the product being scanned in the self-checkout system must pass the security test done on the products and that is a series of preset values together with new values added when a product is scanned into

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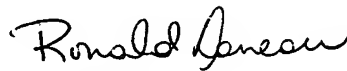
the system. In order for a user to purchase a product, the preset values must match the values for said scanned product or an alarm will identify a station where a security event is occurring so that one can monitor the station. Applicant further argues that the examiner fails to make a prima facie case of obviousness since there is no suggestion or motivation to modify the references or combine reference teachings so as to arrive at the claimed invention. In response to applicant's arguments, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (571) 272-6784. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ronald Laneau
Examiner
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3/1/06

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